

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ADEDAPO ORIMALADE

v.

RICHARD CATERISANO, ET AL.

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Civil No. JFM-04-683

MEMORANDUM

Plaintiff seeks an order of mandamus from this court, requiring the Department of Homeland Security, Bureau of Citizenship and Immigration Services (“CIS”) to “promptly review, consider, and approve the Petition for alien relative filed by Petitioner for his wife.” Defendants have filed a motion to dismiss or for summary judgment. Plaintiff, who is represented by counsel, has not responded to the motion.

An affidavit and supporting materials submitted by defendants in support of their motion establish that plaintiff never filed for his wife the petition as to which he seeks the writ of mandamus. Although he noted on a petition he filed for his son that he was also filing one for his wife, defendants have located no record indicating that the petition on behalf of the wife was filed. They have also presented by way of affidavit evidence demonstrating that if the petition had been filed, there would be a record of it.

Plaintiff was represented by counsel when he filed the petition on behalf of his son and indicated that he was filing one on behalf of his wife as well. The law clearly requires that separate forms for each eligible relative must be filed. *See* 8 C.F.R. §204.1(a)(1); Instructions for Petition for Alien Relative (Ex. 6 to defendant’s motion, at 1, part 1.) Therefore, defendants’ motion will be granted.

Date: July 2, 2004

/s/
J. Frederick Motz
United States District Judge

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 2nd day of July 2004

ORDERED

1. Defendant's motion to dismiss or for summary judgment is granted; and
2. Judgment is entered in favor of defendants against plaintiff.

/s/

J. Frederick Motz
United States District Judge